

classified information on or assignment to a sensitive position if warranted and supportable by the criteria and standards contained in this part.

[52 FR 11219, Apr. 8, 1987, as amended at 58 FR 61025, Nov. 19, 1993]

#### § 154.56 Procedures.

(a) *General.* No final personnel security determination shall be made on a member of the Armed Forces, an employee of the Department of Defense, a consultant to the Department of Defense, or any other person affiliated with the Department of Defense without granting the individual concerned the procedural benefits set forth in paragraph (b) of this section when such determination results in an unfavorable administrative action (see § 154.55(a)). As an exception, Red Cross/United Service Organizations employees shall be afforded the procedures prescribed by 32 CFR part 253.

(b) *Unfavorable administrative action procedures.* Except as provided for below, no unfavorable administrative action shall be taken under the authority of this part unless the person concerned has been given:

(1) A written statement of the reasons why the unfavorable administrative action is being taken. The statement shall be as comprehensive and detailed as the protection of sources afforded confidentiality under the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and national security permit. The statement will also provide the name and address of the agencies (agencies) to which the individual may write to obtain a copy of the investigative file(s) upon which the unfavorable administrative action is being taken. Prior to issuing a statement of reasons to a civilian employee for suspension or removal action, the issuing authority must comply with the provisions of Federal Personnel Manual, chapter 732, subchapter 1, paragraph 1-6b. The signature authority must be as provided for in § 154.41(b) (1)(ii) and (2)(ii).

(2) An opportunity to reply in writing to such authority as the head of the Component concerned may designate;

(3) A written response to any submission under subparagraph b. stating the final reasons therefor, which shall be as specific as privacy and national se-

curity considerations permit. The signature authority must be as provided for in § 154.41(b) (1)(ii) and (2)(ii). Such response shall be as prompt as individual circumstances permit, not to exceed 60 days from the date of receipt of the appeal submitted under paragraph (b)(2) of this section provided no additional investigative action is necessary. If a final response cannot be completed within the time frame allowed, the subject must be notified in writing of this fact, the reasons therefor, and the date a final response is expected, which shall not, in any case, exceed a total of 90 days from the date of receipt of the appeal under paragraph (b) of this section.

(4) An opportunity to appeal to a higher level of authority designated by the Component concerned.

(c) *Exceptions to policy.* Notwithstanding paragraph (b) of this section or any other provision of this part, nothing in this part shall be deemed to limit or affect the responsibility and powers of the Secretary of Defense to find that a person is unsuitable for entrance or retention in the Armed Forces, or is ineligible for a security clearance or assignment to sensitive duties, if the national security so requires, pursuant to section 7532, title 5, U.S. Code. Such authority may not be delegated and may be exercised only when it is determined that the procedures prescribed in paragraph (b) of this section are not appropriate. Such determination shall be conclusive.

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#### § 154.57 Reinstatement of civilian employees.

(a) *General.* Any person whose civilian employment in the Department of Defense is terminated under the provisions of this part shall not be reinstated or restored to duty or reemployed in the Department of Defense unless the Secretary of Defense, or the head of a DoD Component, finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of national security. Such a finding shall be made a part of the personnel security record.

(b) *Reinstatement benefits.* A DoD civilian employee whose employment has

been suspended or terminated under the provisions of this part and who is reinstated or restored to duty under the provisions of section 3571 of title 5 U.S. Code is entitled to benefits as provided for by section 3 of Pub. L. 89-380.

### Subpart I—Continuing Security Responsibilities

#### § 154.60 Evaluating continued security eligibility.

(a) *General.* A personnel security determination is an effort to assess the future trustworthiness of an individual in terms of the likelihood of the individual preserving the national security. Obviously it is not possible at a given point to establish with certainty that any human being will remain trustworthy. Accordingly the issuance of a personnel security clearance or the determination that a person is suitable for assignment to sensitive duties cannot be considered as a final personnel security action. Rather, there is the clear need to assure that, after the personnel security determination is reached, the individual's trustworthiness is a matter of continuing assessment. The responsibility for such assessment must be shared by the organizational commander or manager, the individual's supervisor and, to a large degree, the individual himself. Therefore, the heads of DoD Components shall establish and maintain a program designed to evaluate on a continuing basis the status of personnel under their jurisdiction with respect to security eligibility. This program should insure close coordination between security authorities and personnel, medical, legal and supervisory personnel to assure that all pertinent information available within a command is considered in the personnel security process.

(b) *Management responsibility.* (1) Commanders and heads of organizations shall insure that personnel assigned to sensitive duties (or other duties requiring a trustworthiness determination under the provisions of this part) are initially indoctrinated and periodically instructed thereafter on the national security implication of their duties and on their individual responsibilities.

(2) The heads of all DoD components are encouraged to develop programs designed to counsel and assist employees in sensitive positions who are experiencing problems in their personal lives with respect to such areas as financial, medical or emotional difficulties. Such initiatives should be designed to identify potential problem areas at an early stage so that any assistance rendered by the employing activity will have a reasonable chance of precluding long term, job-related security problems.

(c) *Supervisory responsibility.* Security programs shall be established to insure that supervisory personnel are familiarized with their special responsibilities in matters pertaining to personnel security with respect to personnel under their supervision. Such programs shall provide practical guidance as to indicators that may signal matters of personnel security concern. Specific instructions should be disseminated concerning reporting procedures to enable the appropriate authority to take timely corrective action to protect the interests of national security as well as to provide any necessary help to the individual concerned to correct any personal problem which may have a bearing upon the individual's continued eligibility for access.

(1) In conjunction with the submission of PRs stated in § 154.19, and paragraph 5, Appendix A, supervisors will be required to review an individual's DD Form 398 to ensure that no significant adverse information of which they are aware and that may have a bearing on subject's continued eligibility for access to classified information is omitted.

(2) If the supervisor is not aware of any significant adverse information that may have a bearing on the subject's continued eligibility for access, then the following statement must be documented, signed and dated, and forwarded to DIS with the investigative package.

I am aware of no information of the type contained at Appendix D, 32 CFR part 154, relating to subject's trustworthiness, reliability, or loyalty that may reflect adversely on his/her ability to safeguard classified information.